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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,842	01/03/2002	Jimmy T. Doan	453390	9709

27717 7590 07/29/2003

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CHICAGO, IL 60603-5803

EXAMINER

ANDERSON, GERALD A

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/038,842

Applicant(s)

DOAN ET AL.

Examiner

JERRY A ANDERSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 14-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-11 and 13 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Response to Arguments***

Applicant's arguments filed 19 May 2003 have been fully considered but they are not persuasive. The applicant argument that the process, claim 21, cannot be practiced by another apparatus because claims 1 and 8 do not define other structure appropriate for the tray to slide on. The Examiner would note that it is structures that are not the applicant's invention that can practice the process. To put it another way the process is not limited to the applicant's invention. It is because it can be practiced by other inventions that the restriction is proper and is made FINAL.

The applicant argues that a partition joining peripheral wall portions reads over the references. The Examiner disagrees because as defined in the claims the peripheral wall is equivalent to the side walls of a drawer and a partition is therefore equivalent to a front wall of a drawer that joins the bottom and peripheral wall as is shown by both Propst and Klug. It is noted that as a partition the front wall 16 of also carries a lock that engages with the sliding tray keeper 41. The lock can obviously be mounted on either the tray or partition as this is within the ordinary skill of one versed in the art.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Claim Rejections - 35 USC § 112***

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-12 is objected to under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Terms that make the claims indefinite include "its" in claims 8 and 12. Claim 12 is misdescriptive because the engagement is not to "prevent access to space between the tray and the partition" but to prevent access to the compartment.

***Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 8-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Propst et al in view of Klug, Kress and Heinrichs. Propst is cited showing a drawer 10 with a tray 100 with flanges 101 and a bottom wall below the peripheral walls 13, see Figure 9. Propst fails to show a partition in the drawer, a rear wall flange or keyed lock. Klug is cited showing a drawer 15 with peripheral walls 17, 18 and 19, partitions 16, 20 and a tray 22 with a keyed lock 24, 27-43 for the purpose securing a portion of the drawer for private use. Kress is cited showing a rear wall flange 14 provided to overlap a sliding shelf. Heinrichs is cited showing a drawer with a partitioned portion 1 and a movable closure 2 with a keyed lock 4 supported in a forward wall of the closure engaging a partition wall 3 for the purpose securing of a portion of the drawer. Since the references are from the same field of endeavor the purpose of Klug, Kress and Heinrichs would have been obvious in the pertinent art of Propst at the time of the invention it would have been obvious for one having an ordinary skill in the art to have modified Propst with a drawer having a partition and a tray having a lock for the purpose securing a portion of the drawer space in view of Klug, with a rear wall flange provided to overlap a sliding tray in view of Kress and with a drawer, a movable member closing a partitioned portion of the drawer and a lock on the closure engaging a partition wall for the purpose securing the closed portion of the drawer in view of Heinrichs.

***Allowable Subject Matter***

Claim 12 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Anderson whose telephone number is 703 038 2202. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703 308 24668. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 3597 for regular communications and 703 306 4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 2197.

Jaa  
July 23, 2003

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

